

Members

Rep. Robert Kuzman, Chairperson  
Rep. Ryan Dvorak  
Rep. Ralph Ayres  
Rep. Kathy Richardson  
Sen. Richard Bray, Vice-Chairperson  
Sen. David Long  
Sen. John Broden  
Sen. Timothy Lanane  
Justice Randall T. Shepard  
Ernest Yelton  
David A. Lewis



# COMMISSION ON COURTS

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## MEETING MINUTES<sup>1</sup>

**Meeting Date:** August 14, 2003  
**Meeting Time:** 10:00 A.M.  
**Meeting Place:** State House, 200 W. Washington St., 404  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 1

**Members Present:** Rep. Robert Kuzman, Chairperson; Rep. Ryan Dvorak; Rep. Ralph Ayres; Rep. Kathy Richardson; Sen. Richard Bray, Vice-Chairperson; Sen. John Broden; Sen. Timothy Lanane; Justice Randall T. Shepard; Ernest Yelton; David A. Lewis.

**Members Absent:** Sen. David Long.

### Call to Order

Representative Robert Kuzman called the meeting to order at 10:19 a.m.

### 2002 Weighted Caseload Statistical Report

Ron Miller (Director of Trial Court Management for the Division of State Court Administration) addressed the commission regarding the preparation of the 2002 Weighted Caseload Statistical Report (Exhibit A). Mr. Miller explained that the methodology used to compile the current report is identical to the methodology used to compile previous reports. He noted that compilers of the current report reviewed approximately 14,000 judicial time entries and examined approximately 3,500 randomly selected case files.

Senator Tim Lanane asked Mr. Miller to explain the concept of relative severity as it applies to the current report. Mr. Miller stated that relative severity is a statistical representation of how judicial workload is spread among the presiding judges in a county. Mr. Miller noted that

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

the concept is best explained by citing an example. Mr. Miller's example involved two counties, each of which is in need of an additional judge. One county has only one existing judge and the other county has five existing judges. Mr. Miller said that the county with only one existing judge has a greater relative severity because the additional work created by the one judge shortage cannot be spread among multiple presiding judges as it can be in the other county.

Representative Kuzman indicated that in his opinion the times assigned for case resolution by the Division of State Court Administration (hereafter SCA) were under representative of the actual time required to resolve a case. Representative Kuzman cited the SCA's 75 minutes as the average time for resolution of a Class D felony. Representative Kuzman indicated that his principal area of practice is Lake County and in his opinion an average Class D felony takes more than 75 minutes to resolve. Representative Kuzman specifically cited the increased need for English/Spanish translators as a factor that significantly increases the amount of time necessary to resolve a case in Lake County. Mr. Miller responded by noting that while some particular cases or counties may have averages in excess of 75 minutes for a Class D felony, 75 minutes represents a statewide average.

Senator Lanane asked if the study has been independently audited to assure statistical reliability. Mr. Miller stated that the Judicial Administration Committee and the Indiana Judicial Center hired a consultant to review the report and the consultant concluded that the report is statistically valid.

#### Senior Judge for Tax Court

Judge Thomas G. Fisher of the Indiana Tax Court asked the commission to consider amending current law to allow for the appointment of a senior judge to the Indiana Tax Court. Judge Fisher stated he currently has 90 cases under advisement and a senior judge would be the most cost effective manner to reduce the backlog.

Judge Yelton noted that the inability of the tax court to use a senior judge may have been an inadvertent omission when the senior judge statutes were initially enacted by the General Assembly.

#### Judicial Retirement Benefits

Judge Yelton asked the commission to reconsider SB 429 (2003). Judge Yelton stated that SB 429 was voted out of the Senate during the 2003 legislative session but did not receive a hearing upon referral to the House Appointment and Claims Committee. Judge Yelton explained that SB 429 removes a provision that prohibits a retired judge from receiving judicial retirement benefits if the judge is receiving a salary from the state for services performed.

#### Requests for Additional Courts or Judicial Officers

##### Vigo County

Representative Clyde Kersey asked the commission to recommend an additional superior court for Vigo County. Representative Kersey indicated that a first place trial setting for a criminal case filed on the date of the commission hearing is April of 2004 and a first place trial setting for a civil case filed on the date of the commission hearing is 2006. Representative Kersey noted that the local prosecutor, bar association, sheriff and county council all approve of the additional court and the county commissioners are currently renovating an area for use as a courtroom.

#### Howard County

Jim Martin (Howard County Bar Association) asked the commission to recommend an additional superior court for Howard County. Mr. Martin noted that the 2002 Weighted Caseload Statistical Report indicates Howard County is the county most in need of an additional court/judicial officer. Mr. Martin stated that a courtroom has already been constructed and is ready for use. Judge Lynn Murray (Howard County Circuit Court) and Bill Menges (Howard County Chief Public Defender) expressed the dire need for an additional court. Mr. Menges also indicated that the additional court would include a drug court component.

#### Hamilton County

Polly Pearce (Hamilton County Court Administrator) asked the commission to recommend an additional superior court for Hamilton County. Mrs. Pearce offered documentary evidence of county support for the additional superior court (Exhibit B).

#### DeKalb County

Representative Kuzman stated that representatives from DeKalb County contacted him prior to the meeting to request the commission to recommend an additional superior court. Representative Kuzman stated that the commission had approved an additional superior court for DeKalb County during the 2002 interim session and that a favorable recommendation was the presumption for this year.

#### Madison County

Senator Lanane asked the commission to recommend a magistrate to serve the Madison County Superior Court. Senator Lanane stated that there are increased criminal filings in Madison County due to the three correctional facilities in the county. Senator Lanane explained that Madison County had previously addressed the shortage of judicial officers by employing part-time magistrates at county expense. He noted that this was no longer feasible due to an Indiana Supreme Court ruling prohibiting the part-time magistrate from acting as defense counsel in any criminal case before the unified superior court. Also appearing before the commission was Landoll Sorrell (Madison County Court Administrator). Mr. Sorrell offered documentary evidence of county support for the additional superior court (Exhibit C).

#### Perry County

Judge Jim McEntarfer (Perry Circuit Court) asked the commission to recommend an additional superior court for Perry County. Judge McEntarfer cited the high need for an additional court based upon the 2002 Weighted Caseload Statistical Report. He offered documentary evidence of county support for the additional superior court (Exhibit D).

#### Owen County

Representative Kuzman stated that the commission had approved a magistrate for the Owen Circuit Court during the 2002 interim session and that a favorable recommendation was the presumption for this year.

Commission Recommendations

1. Judicial Retirement Benefits. The commission favorably recommended the change to judicial retirement benefits offered by Judge Yelton.

2. Additional Courts or Judicial Officers. The commission favorably recommended each county's request for additional courts and judicial officers.

Next Meeting and Adjournment

Representative Kuzman indicated that topics of study for the next meeting may include: (1) bankruptcy issues recommended by the Indiana State Bar Association; (2) costs of certified mail; (3) a commission recommendation concerning a senior judge for the tax court; and (4) redocketing fees.

Representative Kuzman stated the next commission meeting would be September 25, 2003 at 10:00 a.m.

Representative Kuzman adjourned the meeting at 11:20 a.m.